

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

RANDAL YOUNG,)	
)	
Petitioner,)	
)	
v.)	Case No. 1:13-cv-1826-TWP-DKL
)	
DIRECTOR, Indianapolis Re-Entry Facility,)	
)	
Respondent.)	

**ENTRY DENYING MOTION TO DISMISS AND DIRECTING FURTHER
PROCEEDINGS**

This matter is before the Court on Respondent Brian Smith’s (“Respondent”) First Motion to Dismiss (Dkt. 15), and Petitioner Randal Young’s (“Mr. Young”) Motion for Default Judgment (Dkt. 17), Motion for Entry of Default (Dkt. 18), and Motion to Admit Reply into the Record (Dkt. 23). Having considered the respective motions and related matters, the Court makes the following rulings.

I. THE HABEAS PETITION

A. Preliminary Matters

As an initial matter, Mr. Young has named Brian Smith as the respondent in this case. As shown above, the Clerk is directed to substitute Mr. Young’s custodian, the Director, Indianapolis Re-Entry Facility, as respondent in this matter.

B. Pending Motions

This is an action in which Randal Young, a state prisoner, seeks a writ of habeas corpus. He challenges the validity of a prison disciplinary proceeding in which he was found guilty of violating prison rules by engaging in an unauthorized financial transaction. This proceeding is identified as No. IYC 12-12-0346.

The Respondent appeared by counsel in this action and was given through April 3, 2014, by which to answer the allegations of the petition. On April 3, 2014, the Respondent filed a Motion to Dismiss. This was a timely response and for this reason Mr. Young's Request for Entry of Default Judgment (Dkt. 17) and Motion for Entry of Default (Dkt. 18) are **DENIED**.

Mr. Young's Motion to Admit Reply into the Record (Dkt. 23) is **GRANTED**. His Brief in Opposition to the Motion to Dismiss (Dkt. 26) is deemed to have been timely filed.

C. The Motion to Dismiss

The basis of the Motion to Dismiss is the Respondent's claim that Mr. Young failed to exhaust his available administrative remedies and that the time within which he could do so has passed. Mr. Young opposes the Motion to Dismiss.

The exhaustion requirement of 28 U.S.C. § 2254(b)(1)(A) applies to the challenge that Mr. Young presents. Indiana prisoners must pursue their available administrative remedies before filing a habeas petition. *Eads v. Hanks*, 280 F.3d 728, 729 (7th Cir. 2002); *Markham v. Clark*, 978 F.2d 993, 995 (7th Cir. 1992). The failure to do so, whether pertaining to the remedy as a whole or to the inclusion in an administrative appeal each claim which is later asserted in a federal habeas petition, constitutes a procedural default.

The parties dispute whether Mr. Young presented an appeal to the facility head as the first level of the administrative appeals process. Having considered the matters referenced above and the material supporting their respective arguments, the Court is not persuaded by Respondent's argument. Therefore, the Motion to Dismiss (Dkt. 15) is **DENIED**. The action will proceed to a determination on the merits of the habeas petition or to such other disposition as may be warranted.

II. CONCLUSION

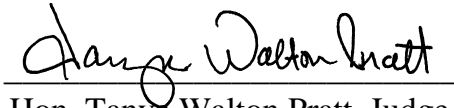
For the reasons stated above, Respondent's Motion to Dismiss (Dkt. 15) is **DENIED**. Mr. Young's Request for Entry of Default Judgment (Dkt. 17) and Motion for Entry of Default (Dkt. 18) is **DENIED** and Mr. Young's Motion to Admit Reply into the Record (Dkt. 23) is **GRANTED**.

III. FURTHER PROCEEDINGS

The Respondent shall have through **July 2, 2014**, in which to file any further response to Mr. Young's petition for writ of habeas corpus.

SO ORDERED.

Date: 05/29/2014


Hon. Tanya Walton Pratt, Judge
United States District Court
Southern District of Indiana

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